

This application is divisional application of a divisional application. The parent and grandparent applications have issued into U.S. 6,703,153 and U.S. 6,074,771, respectively. Both of these patents as well as the current application are based on the same original Rule 63 declaration (37 CFR § 1.63), the declaration originally executed by some but not all of the inventors (including Mr. Chawla) in June-September 1998. As correctly noted by Examiner Alejandro, this original Rule 63 declaration is defective in that it fails to state the inventors are “original” inventors.

Because the Rules of Practice allow a registered attorney of record to sign a request for deleting the name of an inventor under CFR § 1.48(b), and further because the above defect in the original declaration affects not only this application but the above parent patents as well, the undersigned set about to correct this defect by a procedure in which only a **single replacement declaration** under 37 CFR §1.67(a) could be used to correct this defect **in all three of these patent properties**. All three of these patent properties are based on the same original declaration, and so it naturally follows that the same replacement declaration should be useful for overcoming the same problem in all three of these patent properties.

Therefore, the undersigned asked all of the inventors, including Mr. Chawla, to sign a replacement declaration which was otherwise identical to the original declaration they had signed in 1998, except that (1) the missing “original” was added and (2) the power of attorney designation was updated.¹ The idea was that, by following this approach, only a single replacement declaration would be needed for all three patent properties and, moreover, correcting inventorship in this application could be done by the attorney of record without obtaining additional signatures by the assignee or inventors (in accordance with the underlying purpose of CFR § 1.48(b) in allowing attorneys of record to sign).

Thus, it will be seen that, although Mr. Chawla’s signing of the replacement declaration might appear to be inconsistent with the request filed to delete his name as inventor **in this particular application**, it is not necessarily inconsistent with his status as inventor in the two parent patents to which this replacement declaration also relates.²

¹ This explains why the typed addresses of some of the inventors on the replacement declaration are different from their current addresses.

² Since it is not in issue here, no determination has been made as of this time regarding the effect of the inventorship change in this application on the two parent patents.

Applicants thank the examiner for bringing this apparent inconsistency to their attention. In addition, Applicants believe the above explanation makes clear that their previously filed request to remove Mr. Chawla as a named inventor in this particular application is not inconsistent with the replacement declaration filed November 10, 2008. Accordingly, Applicants respectfully request that their request to remove Mr. Chawla's name as inventor be granted and, as a result, all rejections based on the Cubukeu patent (U.S. 6,132,573) be withdrawn, as that patent does not qualify as prior art under 35 USC §102(e).

Handwritten Alterations

Applicants also respectfully request the examiner to reconsider and withdraw his conclusion that the replacement declaration filed on November 10, 2008, is defective because of certain handwritten notations made by inventors Cubukcu, Dodeja and Chawla.

Inasmuch as Sandeep Chawla is not an inventor of the subject matter of this particular application, any defect in his signing of the replacement declaration is immaterial.

More importantly, CFR § 1.52(c) does not require that handwritten alterations in a declaration made at the time of signing **must** be separately initialed and dated, as the examiner is asserting. Rather, CFR § 1.52(c) only indicates that such initialing and dating **should** be done. It is thus clear that this requirement is not mandatory, but rather **discretionary**. (Compare the very next sentence in this rule which makes clear that alterations made after signing the declaration **must** be supported by a supplemental declaration and hence are clearly mandatory, not discretionary.)

In this case, the handwritten alterations made by inventors Chawla and Dodeja are very close to their signatures and dates. Thus, the vertical spacing between inventor Chawla's handwritten alterations and his signature and date is only one inch (1"). In the case of inventor Dodeja, this vertical spacing is only one-quarter inch (1/4"). Moreover, these handwritten alterations were clearly made by the same handwriting as the respective signatures on these documents. Furthermore, the substance of these handwritten alterations did not change any typed information but only updated it.

Under these circumstances, Applicants believe there can be no reasonable doubt that (1) these handwritten updates were made by inventors Chawla and Dodeja at that time of signing and (2) these handwritten updates were included in the written information in these declarations attested to by inventors Chawla and Dodeja by virtue of their respective signatures and dates.

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Responsive to Office Action of February 3, 2009

That being the case, Applicants respectfully request the examiner to reconsider and withdraw his conclusion that the replacement declaration submitted November 10, 2008, is defective.

Respectfully submitted,

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Date

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